

2006 JUL 11 (THU) 28

The United States Bankruptcy Court  
District of Delaware  
In re: W.R. Grace & Co., et al., Debtors  
Chapter 11, CASE No 01-01139 (JKF) Jointly administered  
RE: Docket No 9315 and 11408

SUBJECT: In regards to the Debtors' Fifteenth Omnibus Objections(s) to Claims  
(substantive)  
SURREPLY BRIEFS from PD Claim Number: 004382 Jamie G. Shartzter,  
24172 Zorro Ct, Hayward, California 94541

To The Honorable Judith K. Fitzgerald  
United States Bankruptcy Judge

This surreply is to request NOT to grant relief to the debtors on the objections on my case related to exhibits D-4, D-6 and E-1.  
Even when this reply is being executed on July 7<sup>th</sup>, 2006 I would like to address the court that the information packet arrived late to provide a better thought response. The information was mailed in June 19 and arrived on my residence on June 22 and I received on the 23d of June 2006. It is certain that our modern life does not allow us to read immediately over 120 pages of legalese information in a period of less than 2 weeks. I request from this court to admit my objection(s) to grant relief to the Debtors and to request from them to mail the information on deadlines in a more timely manner as to PD claimants have an analogous time as the counsel debtors have to prepare responses to this Court.

It is obvious that The Debtors motion in their 26 pages try to object to every single claimant. They do say so themselves, from initially 4003 claims, they have objected and dismissed 3102 claims. They have objections against every single claim be either sent to Canada, insufficient information, lack of proof product id, or late filing. The tone of the 26 pages motion and direction of the Debtors request seems to me that Debtors do not want to have a single claim and expect the 901 claims to be dismissed. At this pace the debtors will have not a single claim to be liable for defective products.

A second worrying tone of the debtors' request is the statement The Bankruptcy Judges may hear and determine all cases under title 11 and all core proceedings ... Not limited to Allowance and Disallowance of claims. This is an unnecessary statement from the Debtors to This Court, The Bankruptcy Honorable judges know this authority already. It seems to me the Debtors try to set a direction on the matter or a tone of the direction of

the request addressed to This Court on regards to estimate value of a claim, determining the merits of the claim under state laws, and the allowance or disallowance of the claims. The debtors devote 6 pages to this argument and overstate this several times in a repetitively manner.

- a) On regards to the Debtors statement that " 450 claims out of the 501 US claims " should be estimated at zero because the Debtors have no liability" , it is incorrect however the Debtors want to provide documentary and testimonial evidence. Product id of the asbestos materials is usually imbedded into the material as perhaps usually is not visible or accessible, nonetheless it is asbestos
- b) Objection to my claim, exhibit D-4 and D-6, claim brought late, was addressed to Debtors and to this court by a letter previously. I did purchase my home in August 21, 2002 and the Asbestos defective material was discovered on March 2003. I did file my claim on march 2003, 2 weeks before the final deadline. The Debtors have been informed that I did file this claim in a timely manner, however this objection has not been removed from the list of objections on the packet received on June 23d, 2006 . I do state to thus Court that I did file the claim as soon as I found the harmful material on my home. I do request this Court not to grant relief to Debtors D-4 and D-6 objection from my claim based on the above statement.
- c) Objection to my claim, exhibit E-1, Proof of Hazard or harm: This court should not grant relief to Debtors or dismiss my claim based on the lack of proof of hazard or harm. I did state on the previous Surreply to this Court that: OSHA (Occupational Safety and Health Agency) considers Asbestos products a Carcinogen (generates cancer on humans) material when breathed in. See attachment provided.
- d) The lack of harm or hazard to humans usually takes years in develop. This is a well known fact, that the longer humans breath asbestos fibers the more likely cancer or harm to humans will develop. I have lived in my home 4 years, intend to live here for the rest of my life, thus I have to live with this cancer forming defective material. The proof of harm/hazard can not be provided as of now . This is why it should be taken into account by This court. 20 years later it would be late to provide the proof; however it is known that asbestos are HARMFUL to humans. My home has a heating duct system throughout the entire home, which is lined with asbestos. Thus, I request to this Court not to grant relief to Debtors based on the lack of proof.

Very Truly Yours,  
  
Jamie Shartz



New Jersey Department of Health and Senior Services

## HAZARDOUS SUBSTANCE FACT SHEET

Common Name: **ASBESTOS**

CAS Number: See last page

DOT Number: NA 2212

RTK Substance number: 0164

Date: September 1994 Revision: January 2001

### HAZARD SUMMARY

- \* **Asbestos** can affect you when breathed in.
- \* **Asbestos** is a **CARCINOGEN**—HANDLE WITH EXTREME CAUTION.
- \* Repeated exposure to **Asbestos** can cause the disease called *Asbestosis*, a scarring of the lungs that results in changes on chest x-rays. *Asbestosis* develops some years (from seven to thirty) after the period of exposure. Symptoms include cough, shortness of breath and chest pain. It can progress to disability and death. The earlier exposure is stopped, the better the chance of stopping serious disease later.

### IDENTIFICATION

**Asbestos** is the common name for a group of mineral fibers that range in color from white, green, brown, to blue. It is used as a fireproofing and insulating agent, and in brake linings.

### REASON FOR CITATION

- \* **Asbestos** is on the Hazardous Substance List because it is regulated by OSHA and cited by ACGIH, DOT, NIOSH, NTP, DEP, IARC, HHAG and EPA.
- \* This chemical is on the Special Health Hazard Substance List because it is a **CARCINOGEN**.
- \* Definitions are provided on page 5.

### HOW TO DETERMINE IF YOU ARE BEING EXPOSED

The New Jersey Right to Know Act requires most employers to label chemicals in the workplace and requires public employers to provide their employees with information and training concerning chemical hazards and controls. The federal OSHA Hazard Communication Standard, 1910.1200, requires private employers to provide similar training and information to their employees.

- \* Exposure to hazardous substances should be routinely evaluated. This may include collecting personal and area air samples. You can obtain copies of sampling results from your employer. You have a legal right to this information under OSHA 1910.1020.

- \* If you think you are experiencing any work-related health problems, see a doctor trained to recognize occupational diseases. Take this Fact Sheet with you.

### WORKPLACE EXPOSURE LIMITS

The following exposure limits are for fibers longer than 5 micrometers:

**OSHA:** The legal airborne permissible exposure limit (PEL) is **0.1 fiber/cc** (fiber per cubic centimeter) averaged over an 8-hour workshift and **1 fiber/cc** not to be exceeded during any 15 minute work period.

**NIOSH:** The recommended airborne exposure limit is **0.1 fiber/cc** averaged over a 10-hour workshift.

**ACGIH:** The recommended airborne exposure limit is **0.1 fiber/cc** averaged over an 8-hour workshift.

- \* **Asbestos** is a **CARCINOGEN** in humans. There may be no safe level of exposure to a carcinogen, so all contact should be reduced to the lowest possible level.

### WAYS OF REDUCING EXPOSURE

- \* Enclose operations and use local exhaust ventilation at the site of chemical release. If local exhaust ventilation or enclosure is not used, respirators should be worn.
- \* A regulated, marked area should be established where **Asbestos** is handled, used, or stored as required by the OSHA Standard 29 CFR 1910.1001.
- \* Wear protective work clothing.
- \* Wash thoroughly when leaving a regulated area and at the end of the workshift.
- \* Post hazard and warning information in the work area. In addition, as part of an ongoing education and training effort, communicate all information on the health and safety hazards of **Asbestos** to potentially exposed workers.